

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

ROY STEWART MOORE and KAYLA MOORE,

Plaintiffs,

- against -

SACHA NOAM BARON COHEN, SHOWTIME
NETWORKS, INC., AND CBS CORPORATION,

Defendants.

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Index No. 19 Civ. 4977 (JPC)

ORAL ARGUMENT REQUESTED

DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Rule 56.1 of the Local Rules for the United States District Court for the Southern District of New York, Defendants Sacha Baron Cohen (“Cohen”), Showtime Networks Inc. (“SNI”), and CBS Corporation n/k/a ViacomCBS Inc. (“ViacomCBS”) (collectively, “Defendants”) submit the following Statement of Undisputed Material Facts in support of their Motion for Summary Judgment:

THE PARTIES

1. Plaintiff Roy Moore (“Judge Moore”) is a former Chief Justice of the Supreme Court of Alabama. Compl. ¶ 9.

2. Judge Moore is the Founder and President Emeritus of the Foundation for Moral Law. See <http://morallaw.org/about/>; Compl. at 1 (listing Judge Moore in caption as “c/o Foundation for Moral Law, P.O. Box 4086, Birmingham, AL, 36103”).

3. In 2017, Plaintiff Judge Moore ran for the U.S. Senate for the State of Alabama in a special election to replace Senator Jeff Sessions, who had been appointed Attorney General. Compl. ¶ 9; Declaration of Elizabeth A. McNamara, sworn to February 8, 2021 (“McNamara

Decl.”) ¶ 5 & Ex. 3 (Alexander Burns & Jonathan Martin, *Once a Long Shot, Democrat Doug Jones Wins Alabama Senate Race*, N.Y. Times (Dec. 12, 2017)).

4. During Judge Moore’s U.S. Senate campaign, he faced mounting and widely reported claims that he had inappropriate sexual encounters with young women—including one who was underage at the time—in the 1970s, while he was in his 30s. McNamara Decl. ¶ 3 & Ex. 1 (Stephanie McCrummen, *et al.*, *Woman says Roy Moore initiated sexual encounter when she was 14, he was 32*, Wash. Post (Nov. 9, 2017)); McNamara Decl. ¶ 4 & Ex. 2 (Stephanie McCrummen, *Woman shares new evidence of relationship with Roy Moore when she was 17*, Wash. Post (Dec. 4, 2017)).

5. On December 12, 2017, Judge Moore lost the U.S. Senate election to Democratic candidate Doug Jones. McNamara Decl. ¶ 5 & Ex. 3 (Alexander Burns & Jonathan Martin, *Once a Long Shot, Democrat Doug Jones Wins Alabama Senate Race*, N.Y. Times (Dec. 12, 2017)).

6. Many analysts attributed Judge Moore’s election loss to Doug Jones to the allegations of sexual misconduct made against Judge Moore. McNamara Decl. ¶ 5 & Ex. 3 (Alexander Burns & Jonathan Martin, *Once a Long Shot, Democrat Doug Jones Wins Alabama Senate Race*, N.Y. Times (Dec. 12, 2017) (describing Judge Moore as “scandal-scarred” “after a brutal campaign marked by accusations of sexual abuse and child molestation”)); McNamara Decl. ¶ 6 & Ex. 4 (Jonathan Allen, *Alabama’s Women Wrote the Verdict on Roy Moore*, NBC News (Dec. 13, 2017)).

7. After his election loss, Plaintiffs filed a libel suit against several of the women who had accused Judge Moore of misconduct. McNamara Decl. ¶ 7 & Ex. 5 (Complaint in *Moore v. Hagedorn, et al.* (Ala. Cir. Ct. Etowah Cty.)).

8. Plaintiff Kayla Moore is Judge Moore's wife. Compl. ¶ 4.

9. Kayla Moore is the President of the Foundation for Moral Law. *See* <http://morallaw.org/our-staff/kmoore/>; Compl. at 1 (listing Kayla Moore in caption as "c/o Foundation for Moral Law, P.O. Box 4086, Birmingham, AL, 36103).

10. Kayla Moore unsuccessfully ran for state Republican Executive Committee in June 2018. McNamara Decl. ¶ 8 & Ex. 6 (Connor Sheets, *Roy Moore's wife, Kayla Moore, loses bid for state Republican Executive Committee*, AL.com (June 6, 2018)).

11. Defendant Cohen is a comedian and political satirist, who has created numerous projects in which he "portray[s] disguised fictional characters" who interact with "real" people, including the television series *Da Ali G Show*, and the films *Borat* and *Brüno*. Compl. ¶ 10.

12. Defendant SNI is a wholly owned subsidiary of ViacomCBS. Declaration of Brendan Countee, sworn to February 8, 2021 ("Countee Decl.") ¶ 3.

THE PRODUCTION COMPANIES

13. Four By Two Films, Inc. is a production company solely owned by Cohen. Declaration of Todd Schulman, sworn to February 7, 2021 ("Schulman Decl.") ¶ 2.

14. Yerushalayim Television, LLC ("YTV") was formed on October 6, 2017 under Wyoming law. McNamara Decl. ¶ 12 & Ex. 10 (YTV Articles of Organization).

15. The sole member of YTV is Greenpark Television, LLC ("Greenpark"). McNamara Decl. ¶ 13 & Ex. 11 (Registered Agent Services Agreement for YTV, listing Greenpark as the sole member of YTV); McNamara Decl. ¶ 11 & Ex. 9 (Excerpts from Transcript of Deposition of Jenifer Wallis, January 14, 2021 ("Wallis Tr.)) at 21:24-22:5; McNamara Decl. ¶ 10 & Ex. 8 (Excerpts from Transcript of Deposition of Todd Schulman, January 14, 2021 ("Schulman Tr.)) at 33:20-22.

16. YTV was an active LLC under Wyoming law on October 1, 2018. McNamara Decl. ¶ 14 & Ex. 12 (YTV 2018 Annual Report).

17. YTV was administratively dissolved in 2019. McNamara Decl. ¶ 15 & Ex. 13; Wallis Tr. at 49:9-13.

18. Greenpark was formed on May 23, 2017 under California law. McNamara Decl. ¶ 16 & Ex. 14 (Greenpark Articles of Organization).

19. The sole member of Greenpark is La Quinta Entertainment, LLC (“La Quinta”). McNamara Decl. ¶ 17 & Ex. 15 (Greenpark June 5, 2017 Statement of Information, naming La Quinta in the section setting forth the Manager(s) and Member(s) of Greenpark); McNamara Decl. ¶ 18 & Ex. 16 (notification from United States Internal Revenue Service that Greenpark had been assigned an Employer Identification Number for tax purposes, addressed to “Greenpark Television LLC c/o La Quinta Entertainment LLC Sole.”); Wallis Tr. at 22:8-9; Schulman Tr. at 33:23-25.

20. La Quinta was formed on March 30, 2017 under California law. McNamara Decl. ¶ 19 & Ex. 17 (La Quinta Articles of Organization).

21. The sole member of La Quinta is Please You Can Touch, LLC (“PYCT”). McNamara Decl. ¶ 21 & Ex. 19 (La Quinta Operating Agreement, listing PYCT as the sole member of La Quinta); McNamara Decl. ¶ 20 & Ex. 18 (La Quinta April 17, 2017 Statement of Information, naming PYCT in the section setting forth the Manager(s) and Member(s) of La Quinta); Wallis Tr. at 22:11-12; Schulman Tr. at 34:1-3.

22. PYCT was formed on August 11, 2009 under California law. McNamara Decl. ¶ 22 & Ex. 20 (PYCT Articles of Organization).

23. The sole member of PYCT is Cohen. McNamara Decl. ¶ 23 & Ex. 21 (PYCT Operating Agreement, naming Cohen as the initial member of PYCT); McNamara Decl. ¶ 24 & Ex. 22 (PYCT January 13, 2019 Statement of Information, naming Cohen in the section setting forth the Manager(s) and Member(s) of PYCT); McNamara Decl. ¶ 25 & Ex. 23 (PYCT May 1, 2019 Statement of Information, naming Cohen in the section setting forth the Manager(s) and Member(s) of PYCT); McNamara Decl. ¶ 9 & Ex. 7 (Excerpts from Transcript of Deposition of Sacha Baron Cohen, January 13, 2021 (“Cohen Tr.”)) at 30:16-24; Wallis Tr. at 22:12.

24. Cohen is the ultimate sole owner of YTV, Greenpark, La Quinta, and PYCT, and, as such, is the parent of YTV. Cohen Tr. at 30:13-31:5.

THE PROGRAM

25. *Who Is America?* is a comedy series that employs fictional characters from across the political spectrum (all played by Cohen) who conduct interviews with real individuals to expose and comment on the disparate political views in the United States. Schulman Decl. ¶ 3.

26. *Who Is America?* was created, co-produced, and co-written by its star, Defendant Cohen. Schulman Decl. ¶¶ 3-4.

27. Defendant SNI aired and distributed the Program through the cable network it owns and operates, SHOWTIME. Countee Decl. ¶ 7.

28. The program was licensed to SNI by La Quinta and PYCT, two parent companies of YTV. Countee Decl. ¶ 4; McNamara Decl. ¶¶ 12-25 & Exs. 10-23.

29. The first episode of the Program (“Episode 1”) aired on SHOWTIME on July 15, 2018. Countee Decl. ¶ 10.

30. In Episode 1, Cohen, playing Billy Wayne Ruddick Jr., PhD, conducts an interview of Bernie Sanders, in which Ruddick explains to Sanders that his solution to economic

disparity in America is to have the entire population become part of the “1 percent.” Countee Decl. ¶ 13 & Ex. 2 (Episode 1, DEF0000413.mp4).

31. In Episode 1, Cohen, playing Erran Morad, an Israeli “anti-terrorism” expert, promotes a “Kinderguardians” program to various advocates, lobbyists, and politicians. Countee Decl. ¶ 13 & Ex. 2 (Episode 1 DEF0000413.mp4).

32. The Kinderguardians program promoted by Morad consists of training children between the ages of three and sixteen to use firearms as a defense against school shootings. Countee Decl. ¶ 13 & Ex. 2 (Episode 1, DEF0000413.mp4).

33. The Kinderguardians segment of Episode 1 includes a mock educational video set against a colorful cartoon background, featuring gun rights activist Philip Van Cleave, who instructs the audience in the use of firearms using children’s songs and guns accessorized with stuffed animals bearing names like “Puppy Pistol,” “Gunny Rabbit” and “Uzicorn.” Countee Decl. ¶ 13 & Ex. 2 (Episode 1, DEF0000413.mp4).

34. In Episode 1, former Congressman Joe Walsh, then-Congressmen Dana Rohrbacher and Joe Wilson, and others express their support for the Kinderguardians program. Countee Decl. ¶ 13 & Ex. 2 (Episode 1, DEF0000413.mp4).

35. The second episode of the Program (“Episode 2”) was first exhibited on SHOWTIME on July 22, 2018. Countee Decl. ¶ 11.

36. In Episode 2, Cohen, playing Erran Morad, teaches a former Georgia state politician to combat ISIS, instructing him to detect and repel terrorists by yelling epithets, wearing a burqa, and attempting to touch them with his bare buttocks. Countee Decl. ¶ 13 & Ex. 2 (Episode 2, DEF0000414.mp4).

37. In Episode 2, Cohen, playing Erran Morad, conducts an interview with former Vice President Dick Cheney, over the course of which Morad makes a number of double entendres based on Vice President Cheney's first name. Countee Decl. ¶ 13 & Ex. 2 (Episode 2, DEF0000414.mp4).

38. During Morad's interview with Dick Cheney, after the conversation turns to the subject of waterboarding, Morad notes that he has waterboarded his own wife and asks Vice President Cheney to sign his "waterboarding kit," which he does. Countee Decl. ¶ 13 & Ex. 2 (Episode 2, DEF0000414.mp4).

PLAINTIFFS' TRAVEL AND PARTICIPATION IN THE PROGRAM

39. On February 13, 2018, Plaintiffs flew from Montgomery, Alabama to Washington, D.C. Schulman Decl. ¶ 10.

40. The Moores' flight from Montgomery to Washington on February 13, 2018 was paid for by a representative of La Quinta. Schulman Decl. ¶¶ 10, 15 & Ex. 1.

41. After Plaintiffs' flight from Montgomery, Alabama to Washington, D.C., a car service took Plaintiffs from the airport in Washington, D.C. to the Mandarin Oriental Hotel. Schulman Decl. ¶ 11.

42. Plaintiffs' car service from the airport in Washington, D.C. to the Mandarin Oriental Hotel on February 13, 2018 was paid for by a representative of La Quinta. Schulman Decl. ¶¶ 11, 15 & Ex. 2.

43. From February 13, 2018 to February 14, 2018, Plaintiffs stayed at the Mandarin Oriental hotel in Washington, D.C. Schulman Decl. ¶ 12.

44. Plaintiffs' room at the Mandarin Oriental hotel from February 13, 2018 to February 14, 2018 was paid for by a representative of La Quinta. Schulman Decl. ¶¶ 12, 15 & Ex. 3.

45. On February 14, 2018, a car service took Plaintiffs from the Mandarin Oriental Hotel in Washington, D.C. to the location of an interview that Judge Moore conducted with Cohen, and then from the location of interview to the airport in Washington, D.C. Schulman Decl. ¶ 13.

46. Plaintiffs' car service on February 14, 2018 from the Mandarin Oriental Hotel to the location of the interview, and from the location of the interview to the airport in Washington, D.C., was paid for by a representative of La Quinta. Schulman Decl. ¶¶ 13, 15 & Ex. 4.

47. On February 14, 2018, Plaintiffs flew from Washington, D.C. to Montgomery, Alabama. Schulman Decl. ¶ 14.

48. Plaintiffs' flight from Washington, D.C. to Montgomery, Alabama was paid for by a representative of La Quinta. Schulman Decl. ¶¶ 14, 15 & Ex. 1.

THE EPISODE OF THE PROGRAM FEATURING JUDGE MOORE

49. The third episode of the Program ("Episode 3") was first exhibited on SHOWTIME on July 29, 2018. Countee Decl. ¶ 12.

50. Episode 3 contains an interview Cohen, playing Erran Morad, conducted of Judge Moore. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

51. The interview of Judge Moore by Morad took place at a hotel in Washington, D.C. on February 14, 2018. Schulman Decl. ¶ 9.

52. The interview of Judge Moore by Morad was the first segment in the 25-minute Episode 3. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

53. After an introduction from "Morad," the segment shows a montage of news anchors discussing the rising tide of accusations of sexual misconduct against Judge Moore, with a succession of news anchors saying "Four women...", "A fifth woman...", "A total of nine women have now come forward," with one clip showing onscreen text from a *Washington Post*

article stating “Woman says Roy Moore initiated sexual encounter when she was 14, he was 32.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

54. The segment then cuts to President Trump at a rally telling his audience “Get out and vote for Roy Moore. Do it.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

55. After first discussing with Judge Moore why the State of Alabama is so closely connected to Israel (during which Judge Moore states that “Alabama has always been a state that valued freedom, valued liberty”), Morad brings up the Israeli military’s use of technology to fight terrorist attacks. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

56. Morad describes a device which he claims can detect the location of tunnels used to infiltrate Israel using “seismic waves.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

57. Morad explains that the technology is also able to “identify other abnormalities,” including “sex offenders and particularly pedophiles,” who secrete a certain “enzyme” at “three times the level of non-perverts.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

58. Morad then holds up a black plastic wand that looks like an ordinary metal detector that would be used for security checks at airports and courthouses. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

59. Morad waves the wand in front of himself and Judge Moore, noting that “because neither of us are sex offenders, then it make absolutely nothing [*sic*].” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

60. To Morad’s apparent surprise, as he waves the wand in front of Judge Moore, it emits a beep. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

61. Morad insists the device “must be faulty,” smacks it against his hand, and asks if Judge Moore may have lent the jacket he was wearing to someone else. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

62. Judge Moore states that he has “been married for 33 – and never had an accusation of such things.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

63. Judge Moore then cuts off the interview and leaves, as Morad insists that the device is “not saying that you are a pedophile, of course not” and that he is “not saying you are a sex offender at all.” Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

64. In Episode 3, Cohen, playing Dr. Nira Cain-N’Degeocello, facilitates a “debate” between a Republican state legislator and rapper named “Bone Crusher” and engages in a rap battle on the streets of Atlanta. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

65. In Episode 3, Cohen, playing Erran Morad, teaches three would-be vigilantes how to lure and trap illegal immigrants by hosting a fake Quinceañera celebration, which involves one of the men dressing up as a teenage girl (complete with a ball gown and tiara), before the plan is foiled by the arrival of the police. Countee Decl. ¶ 13 & Ex. 2 (Episode 3, DEF0000415.mp4).

THE STANDARD CONSENT AGREEMENT

66. Prior to the taping of his interview with Cohen on February 14, 2018, Judge Moore signed a Standard Consent Agreement (“SCA”) with “Yerushalayim TV (including its assigns, licensees, parents, subsidiaries, and affiliates),” which are collectively defined as the “Producer” in the agreement. Schulman Decl. ¶ 16 & Ex. 5.

67. The SCA is signed by “Roy S. Moore.” Schulman Decl. ¶ 16 & Ex. 5.

68. The SCA is dated “2/14/2018.” Schulman Decl. ¶ 16 & Ex. 5.

69. Mrs. Moore was present when Judge Moore signed the SCA. Schulman Decl. ¶ 18.

70. The preamble to the SCA states: “This is an agreement between Yerushalayim TV (including its assigns, licensees, parents, subsidiaries, and affiliates) (collectively, the “Producer”) and the undersigned participant (the “Participant”). In exchange for the Producer making a \$200 donation to a charity chosen by the Participant and allowing an opportunity for the Participant to appear in a television series, the Participant agrees as follows.” Schulman Decl. ¶ 16 & Ex. 5.

71. Cohen is a producer of the Program, Schulman Decl. ¶¶ 3-4, and a parent of YTV. Cohen Tr. at 30:13-31:5.

72. SNI is a licensee of YTV through its parents, La Quinta and PYCT. Countee Decl. ¶ 4; McNamara Decl. ¶¶ 12-25 & Exs. 10-23.

73. ViacomCBS is the parent of SNI. Countee Decl. ¶ 3.

74. Beneath the preamble to the SCA the text “Foundation For Moral Law” is written in ink. Schulman Decl. ¶ 16 & Ex. 5.

75. Paragraph 4 of the SCA states:

The Participant specifically, but without limitation, waives, and agrees not to bring at any time in the future, any claims against the Producer, or against any of its assignees or licensees or anyone associated with the Program, which are related to the Program or its production, or this agreement, including, but not limited to, claims involving assertions of (a) failure to adequately compensate Participant, (b) failure to use the footage of Participant in the Program, (c) infringement of rights of publicity or misappropriation (such as any allegedly improper or unauthorized use of the Participant’s name or likeness or image), (d) damages caused by “acts of God” (such as, but not limited to, injuries from natural disasters), (e) damages caused by acts of terrorism or war, (f) intrusion or invasion of privacy (such as any allegedly sexual-oriented or offensive behavior or questioning), (g) false light (such as any allegedly false or misleading portrayal of the Participant), (h) infliction of emotional distress (whether allegedly intentional or negligent), (i) trespass (to property or person), (j) breach of any

alleged contract (whether the alleged contract is verbal or in writing), (k) allegedly deceptive business or trade practices, (l) copyright or trademark infringement, (m) defamation (such as any allegedly false statements made in the Program), (n) violations of Section 43(a) of the Lanham Act (such as allegedly false or misleading statements or suggestions about the Participant in relation to the Program or the Program in relation to the Participant), (o) prima facie tort (such as alleged intentional harm to the Participant), (p) fraud (such as any alleged deception about the Program or this consent agreement), (q) breach of alleged moral rights, or (r) tortious or wrongful interference with any contracts or business of the Participant.”

Schulman Decl. ¶ 16 & Ex. 5 § 4.

76. The following parenthetical language of Paragraph 4 of the SCA is struck through, with the initials “RSM” handwritten alongside in the margin: “(such as any allegedly sexual-oriented or offensive behavior or questioning).” Schulman Decl. ¶ 16 & Ex. 5 § 4.

77. Paragraph 5 of the SCA states:

This is the entire agreement between the Participant and the Producer or anyone else in relation to the Program, and the Participant acknowledges that in entering into it, the Participant is not relying upon any promises or statements made by anyone about the nature of the Program or the identity, behavior, or qualifications of any other Participants, cast members, or other persons involved in the Program. Participant is signing this agreement with no expectations or understandings concerning the conduct, offensive or otherwise, of anyone involved in this Program.”

Schulman Decl. ¶ 16 & Ex. 5 § 5.

78. Paragraph 6 of the SCA state:

Although the Participant agrees not to bring any claim in connection with the Program or its production, if any claim nevertheless is made, the Participant agrees that any such claim must be brought before, and adjudicated by, only a competent court located in the State and County of New York, and governed by the substantive laws of the State of New York. This paragraph is intended by the parties to stand on its own, and it is intended to be valid and enforceable, even if a court finds that other paragraphs are not valid or enforceable.

79. On February 20, 2018, an employee of La Quinta made a donation of \$200 to the Foundation for Moral Law. Schulman Decl. ¶¶ 19-20 & Ex. 7.

80. Joe Walsh, Dana Rohrbacher, Joe Wilson and Dick Cheney signed agreements with YTV prior to their participation in *Who Is America?*. Schulman Decl. ¶ 17 & Ex. 6.

81. With the exception of the strikethrough and the information regarding the charitable donation written in ink, the SCA signed by Judge Moore is identical to the agreements signed by Walsh, Rohrbacher, Wilson, and Cheney with YTV. Schulman Decl. ¶¶ 16, 17 & Exs. 5, 6.

BORAT

82. The First Amended Complaint in *Martin v. Mazer et al.*, No. 08-cv-1828 (S.D.N.Y.) (the “*Martin Case*”), alleged that the producers of *Borat*, “through fraud and deceit, Defendants hijacked [the plaintiff’s] name, image, likeness and goodwill and used them in an R-rated blockbuster movie without her permission.” McNamara Decl. ¶ 26 & Ex. 24 ¶ 2.

83. The First Amended Complaint in *Streit v. Twentieth Century Fox Film Corp.*, No. 08-cv-1571 (S.D.N.Y.) (the “*Streit Case*”), alleged that the producers of *Borat* “cast[] Plaintiffs as racially intolerant.” McNamara Decl. ¶ 27 & Ex. 25 ¶ 35.

84. The plaintiff in *Psenicska v. Twentieth Century Fox Film Corp.*, No. 07-cv-10972 (S.D.N.Y.) (the “*Psenicska Case*”), entered into a “standard consent agreement” with “Springland Films” in connection with his appearance in *Borat*, which waived all claims against “anyone associated with the Film,” including any claims for “fraud (such as any alleged deception or surprise about the Film or this consent agreement).” McNamara Decl. ¶ 28.a & Ex. 26 § 4.

85. The plaintiff in the *Psenicska Case* entered into a “standard consent agreement” with “Springland Films” in connection with his appearance in *Borat*, which stated that “the Participant acknowledges that in entering into [the agreement], the Participant is not relying upon

any promises or statements made by anyone about the nature of the Film or the identity of any other Participants or persons involved in the Film. McNamara Decl. ¶ 28.a & Ex. 26 § 5.

86. The plaintiffs in the *Streit* Case entered into a “standard consent agreement” with a “Springland Films” in connection with their appearance in *Borat*, which waived all claims against “anyone associated with the Film,” including any claims for “fraud (such as any alleged deception or surprise about the Film or this consent agreement).” McNamara Decl. ¶ 28.b & Ex. 27 § 4.

87. The plaintiffs in the *Streit* Case entered into a “standard consent agreement” with a “Springland Films” in connection with their appearance in *Borat*, which stated that “the Participant acknowledges that in entering into [the agreement], the Participant is not relying upon any promises or statements made by anyone about the nature of the Film or the identity of any other Participants or persons involved in the Film. McNamara Decl. ¶ 28.b & Ex. 27 § 5.

88. The plaintiff in the *Martin* Case entered into a “standard consent agreement” with “Springland Films” in connection with her appearance in *Borat*, which waived all claims against “anyone associated with the Film,” including any claims for “fraud (such as any alleged deception or surprise about the Film or this consent agreement).” McNamara Decl. ¶ 28.c & Ex. 28 § 4.

89. The plaintiff in the *Martin* Case entered into a “standard consent agreement” with “Springland Films” in connection with her appearance in *Borat*, which stated that “the Participant acknowledges that in entering into [the agreement], the Participant is not relying upon any promises or statements made by anyone about the nature of the Film or the identity of any other Participants or persons involved in the Film. McNamara Decl. ¶ 28.c & Ex. 28 § 5.

90. Paragraphs 4 and 5 of the SCA entered into by Judge Moore contain language materially identical in to the language quoted in ¶¶ 84-89 *supra* from Paragraphs 4 and 5 of the agreements entered into by the Plaintiffs in the *Psenicska* Case, the *Streit* Case, and the *Martin* Case. Compare Schulman Decl. ¶ 16 & Ex. 5 §§ 4 and 5 with McNamara Decl. ¶ 28.a & Ex. 26 §§ 4 and 5; McNamara Decl. ¶ 28.b & Ex. 27 §§ 4 and 5; McNamara Decl. ¶ 28.c & Ex. 28 §§ 4 and 5.

91. The *Psenicska* Case, the *Streit* Case, and the *Martin* Case were consolidated, and subsequently dismissed in *Psenicska v. Twentieth Century Fox Film Corp.*, Nos. 07 Civ. 10972, *et al.*, 2008 WL 4185752 (S.D.N.Y. Sept. 3, 2008), *aff'd*, 409 F. App'x 368 (2d Cir. 2009).

Dated: February 8, 2021

Respectfully Submitted,

/s/ Elizabeth A. McNamara

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